

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Peter Waldmeier et al.

APPLICATION NO: 10/599676

INTERNATIONAL APPLICATION NO.

PCT/EP05/03664

INTERNATIONAL FILING DATE: April 7, 2005

FOR: NIM811 in Cerebral Ischemia and Brain and Spinal Cord Injury

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

Sir:

The Notice mailed August 31, 2007 (a copy of which is enclosed) has a shortened statutory time set to expire on October 31, 2007.

A four-month extension is hereby requested pursuant to 37 CFR §1.136(a). Please charge Deposit Account No. 50-4409 in the name of Novartis in the amount of \$1590 for payment of the extension fee.

In response, Applicants now submit an original or copy of a fully executed Declaration and Power of Attorney. Please charge the \$130 surcharge fee under 37 CFR §1.16(e) to Deposit Account No. 19-0134 in the name of Novartis.

With regard to the Notice's requirement of a Sequence Listing, Applicants call the Office's attention to the following. **MPEP 2422.01** ("Definitions of Nucleotide and/or Amino Acids for Purpose of Sequence Rules") states that:

The presence of one or more D-amino acids in a sequence will exclude that sequence from the scope of the rules. (Voluntary compliance is, however, encouraged in these situations; the symbol "Xaa" can be used to represent D-amino acids.)

There are only two sequences in the present application that would warrant inclusion in a sequence listing, both of which contain D-amino acids. These can be found in claims 3 and 4, and in their corresponding support in the specification.

Applicants considered voluntarily filing a sequence listing nevertheless, but concluded that it would not be helpful for purposes of examining the present application. For one, several of the remaining, non-D-amino acid residues of the application's two sequences are themselves synthetic, and Applicants would not be required to include them in the Sequence Listing. For example, "MeBmt," or methylated (4R)-4-[(E)-2-butenyl]-4-methyl-L-threonine, does not appear anywhere in the "modified and unusual amino acids" table of 37 CFR 1.822(b), which incorporates by reference WIPO Standard ST.25 (1998), Appendix 2, Table 3 (see MPEP § 2422). Therefore, Applicants are not expected to list that portion of the sequence as part of the Sequence Listing either. Ultimately, Applicants would be submitting a sequence listing that would contain only two largely synthetic sequences, which wouldn't assist the examination of the application. Therefore, Applicants are not submitting a Sequence Listing.

The Commissioner is hereby authorized to charge any additional fees under 37 CFR §1.17 which may be required, or credit any overpayment, to Account No. 50-4409 in the name of Novartis.

A duplicate copy of this letter is provided for charging purposes.

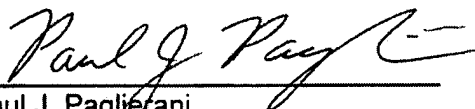
Respectfully submitted,

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Date:

*February 25, 2008*

  
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